

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE TENNESSEE**

**June 21, 2005**

**IN RE:**

**PETITION OF TEL WEST COMMUNICATIONS, LLC  
FOR WAIVER OF THE TRA'S REQUIREMENT OF A  
\$20,000.00 CORPORATE SURETY BOND OR AN  
EQUIVALENT IRREVOCABLE LETTER OF CREDIT**

**DOCKET NO.  
04-00272**

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**ORDER DENYING WAIVER OF SURETY BOND**

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This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on January 31, 2005, to consider the petition filed by Tel West Communications, LLC ("Tel West" or "Company") for waiver of the \$20,000 corporate surety bond or irrevocable letter of credit required by Tenn. Code Ann. § 65-4-125(j) (2004).<sup>1</sup>

The TRA received notice on August 10, 2004 that Hartford Fire Insurance Company intended to cancel Tel West's surety bond effective October 16, 2004. On August 13, 2004, the Authority sent a letter to Tel West advising the Company to obtain either a replacement corporate surety bond or an irrevocable letter of credit no later than September 30, 2004 to avoid

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<sup>1</sup> Tenn Code Ann § 65-4-125(j) (2004) provides

By September 1, 2000, all telecommunications service providers subject to the control and jurisdiction of the authority, except those owners or operators of public telephone service who pay annual inspection and supervision fees pursuant to § 65-4-301(b), or any telecommunications service provider that owns and operates equipment facilities in Tennessee with a value of more than five million dollars (\$5,000,000), shall file with the authority a corporate surety bond or irrevocable letter of credit in the amount of twenty thousand dollars (\$20,000) to secure the payment of any monetary sanction imposed in any enforcement proceeding, brought under this title or the Consumer Telemarketing Protection Act of 1990, compiled in title 47, chapter 18, part 15, by or on behalf of the authority

being subjected to sanctions, including possible revocation of Tel West's Certificate of Public Convenience and Necessity ("CCN").

On August 31, 2004, Tel West filed its petition requesting the Authority to waive the bond requirement pursuant to TRA Rule 1220-1-1-.05.<sup>2</sup> In support of its request, the Company stated that it intended to provide service only until its existing customers disconnected or failed to renew service, and that it expected to have no customers remaining in Tennessee by the end of the first quarter of 2005. Tel West cited the lack of customer complaints against it as support for its assertion that there was no indication that its customers were at risk of losing service before the end of their prepaid service period. The Company also stated that the amount of the required bond or letter of credit far exceeded the amount necessary to protect the prepayments of their small number of customers.

On October 25, 2004, the TRA sent a second notice to Tel West via certified mail. The Authority notified the Company that the maintenance of a surety bond or irrevocable letter of credit is a statutory requirement that cannot be waived by the Authority. Tel West was advised to submit proof of the existence of a surety bond or irrevocable line of credit or send notice if it wished to have its authority cancelled by the TRA.

Tel West filed a letter with the TRA on December 15, 2004, stating its intent to discontinue service in Tennessee effective March 10, 2005 and requesting cancellation of its CCN.<sup>3</sup> Tel West also provided a copy of the customer notice that would be sent to its Tennessee customers.

At the regularly scheduled Authority Conference held on January 31, 2005, the voting

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<sup>2</sup> TRA Rule 1220-1-1-.05(1) reads, in part "For good cause, including expediting the disposition of any matter, the Authority may waive the requirements or provisions of any of these rules in a particular proceeding, on motion of a party or on its own motion, **except where a rule embodies a statutory requirement**" (emphasis added)

<sup>3</sup> Tel West originally filed its Application and was granted authority to provide operator services and/or resell telecommunications services within the State of Tennessee on January 25, 2000 under the name of Classic Telephone Company (TRA Docket No 99-00565) Subsequent name changes were filed and approved in Docket Nos 00-00887, 01-00034 and 01-00531

panel assigned to this docket found that the Authority does not have the authority to waive the corporate surety bond or irrevocable line of credit required by Tenn. Code Ann. § 65-4-125(j) (2004) and unanimously voted to deny Tel West's petition.<sup>4</sup>

**IT IS THEREFORE ORDERED THAT:**

The petition filed by Tel West Communications, LLC for waiver of the \$20,000 corporate surety bond or irrevocable letter of credit required by Tenn. Code Ann. § 65-4-125(j) (2004) is denied.



Pat Miller, Chairman



Deborah Taylor Tate, Director



Ron Jones, Director

<sup>4</sup> As of the January 31 Conference, the Company had failed to file with the Authority a \$20,000 corporate surety bond or an irrevocable letter of credit. As a result, in TRA Docket No 99-00565, the panel voted unanimously to revoke the authority of the Company to conduct business in the State of Tennessee effective March 10, 2005.